# BEFORE THE APPEALS BOARD FOR THE KANSAS DIVISION OF WORKERS COMPENSATION

ERIK CORCORAN	)	
Claimant	)	
VS.	)	
	) Docket No. 251,57	71
COSENTINO ENTERPRISES, INC.	)	
Respondent	)	
AND	)	
	)	
RELIANCE INSURANCE COMPANY	)	
Insurance Carrier	)	

## ORDER

Respondent and its insurance carrier appealed the April 19, 2000 preliminary hearing Order entered by Administrative Law Judge Steven J. Howard.

#### ISSUES

Respondent and its insurance carrier agree that claimant is entitled to receive medical treatment for a work-related accident that is compensable under the Workers Compensation Act. But they challenge the Judge's Order that requires them to provide a treating physician in San Antonio, Texas. They argue the Judge exceeded his jurisdiction. That is the only issue before the Appeals Board on this review.

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

After reviewing the record compiled to date, the Appeals Board finds:

- 1. This appeal should be dismissed.
- 2. This is an appeal from a preliminary hearing order. Not every alleged error in law or fact at the preliminary hearing level is subject to review.

The Appeals Board's jurisdiction to review preliminary hearing issues and findings is generally limited to the following:<sup>1</sup>

<sup>&</sup>lt;sup>1</sup> K.S.A. 1999 Supp. 44-534a.

- (1) Did the worker sustain an accidental injury?
- (2) Did the injury arise out of and in the course of employment?
- (3) Did the worker provide timely notice and timely written claim?
- (4) Is there any defense to the compensability of the claim?

Further, the Appeals Board may also review those preliminary hearing orders in which the Judge has exceeded his or her jurisdiction.<sup>2</sup>

- 3. The question of whether the Judge erred by ordering medical treatment to be provided in San Antonio, where claimant now resides, is not reviewable from a preliminary hearing order. The Judge has the jurisdiction at preliminary hearings to determine whether a worker needs medical treatment and to order the respondent and its insurer to provide a list of potential treating physicians. Therefore, the Judge has not exceeded his jurisdiction.
- 4. As provided by the Workers Compensation Act, preliminary hearing findings are not final but subject to modification upon a full hearing of the claim.<sup>3</sup>

**WHEREFORE**, the Appeals Board dismisses the appeal leaving Judge Howard's April 19, 2000 Order in full force and effect.

#### IT IS SO ORDERED.

Dated this day of June 2000.

### BOARD MEMBER

c: William W. Hutton, Kansas City, KS Rex W. Henoch, Lenexa, KS Steven J. Howard, Administrative Law Judge Philip S. Harness, Director

<sup>&</sup>lt;sup>2</sup> K.S.A. 1999 Supp. 44-551(b)(2)(A).

<sup>&</sup>lt;sup>3</sup> K.S.A. 1999 Supp. 44-534a(a)(2).